

REMARKS

Claims 21-40 were originally filed in the present application.

Claims 21-40 are pending in the present application.

Claims 21-40 were rejected in the July 14, 2005 Office Action.

No claims have been allowed.

Claims 21-40 remain in the present application.

Reconsideration of the claims is respectfully requested.

In Sections 1 and 2 of the July 14, 2005 Office Action, the Examiner rejected Claims 21-40 under the judicially created doctrine of double patenting over Claims 1-20 of U.S. Patent No. 6,625,134 (the ‘134 Patent). Applicants respectfully disagree with the Examiner’s rejection. Claim 1 of the ‘134 Patent, for example, requires *inter alia* a failure detection circuit capable of detecting a failure in said at least one overhead channel of a first base transceiver station and generating a failure notification. The present invention does not claim, for example, a failure detection circuit, as required by independent Claims 1, 9 and 17 of the ‘134 Patent. Accordingly, the ‘134 Patent does not claim the same invention as that of the present application as the Examiner suggests. Applicants therefore respectfully request that the rejection of Claims 21-40 under the judicially created doctrine of double patenting over Claims 1-22 of the ‘134 Patent be withdrawn.

In Sections 3 and 4 of the July 14, 2005 Office Action, the Examiner rejected Claims 21-27, 29-35 and 37-39 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,108,547 to Yamashita *et al.* (the “Yamashita reference”). Applicants respectfully disagree and

assert that the Yamashita reference fails to disclose, for example, in response to an access request notification, terminating a first communication link between said first base transceiver station and a first selected one of said plurality of mobile stations, wherein said first selected mobile station maintains at least a second communication link with at least a second base transceiver station of said wireless network and *allocating said first data traffic channel associated with said terminated first communication link to establish a communication link with said accessing mobile station*, as required by Claims 21 and 29.

In support of the rejection, the Examiner cites to, for example, column 5, lines 36-58 and column 6, lines 22-60 of the Yamashita reference. Applicants, however, assert that the Yamashita reference discloses receiving an access request from a first mobile station and performing soft handoff. (Yamashita reference, column 5, lines 37-58). The Yamashita reference discloses terminating traffic information communications from a line controller of a first base transceiver station and a transceiver of a second base transceiver station (a first data traffic channel), while establishing traffic information communications between a transceiver of the first base transceiver station and a line controller of the second base transceiver station (a second data traffic channel) during soft handoff. (Yamashita reference, column 5, lines 45-58 and FIGURE 3). Forward traffic information received from the second base transceiver station is transmitted to the accessing mobile station as the radio frequency signal on the allocated channel (or second data traffic channel). (Yamashita reference, column 6, lines 46-48) Reverse traffic information is received from the accessing mobile station as the radio frequency signal on the allocated channel (or the second data

traffic channel) is transferred to the second base station transceiver. (Yamashita reference, column 6, lines 48-51).

Accordingly, the Yamashita reference fails to disclose, for example, allocating said first data traffic channel associated with said terminated first communication link to establish a communication link with said accessing mobile station, as required by Claims 21 and 29. Claims 21 and 29 are thus allowable. Moreover, Claims 22-27 and 30-35, which depend from Claims 21 and 29, respectively, are also allowable. Applicants therefore request favorable reconsideration and allowance of Claims 21-27 and 29-35.

Similarly, with respect to Claim 37, the Yamashita reference also fails to disclose a method for allocating the plurality of data traffic channels comprising: *allocating said first data traffic channel associated with said terminated first communication link to establish a communication link with said accessing mobile station*, as required by Claim 37. Claim 37 and its dependents, Claims 38-40, are thus allowable. Applicants therefore request favorable reconsideration and allowance of Claim 37-40.

In Sections 5 and 6 of the July 14, 2005 Office Action, the Examiner rejected Claims 28, 36 and 40 under 35 U.S.C. §103(a) as being unpatentable over the Yamashita reference in view of U.S. Patent No. 5,287,544 to *Menich et al.* (the “Menich reference”). Applicants respectfully disagree and assert that Claim 28 ultimately depends from allowable Claim 21 and therefore is also allowable. Moreover, Applicants assert that the Yamashita reference, either alone or taken in combination with the Menich reference, does not disclose or make obvious all the necessary elements as required by

Claim 28 and ultimately required by Claim 21. For example, neither the Yamashita or Menich references, taken individually or in combination, teach or make obvious, for example, a channel allocator which allocates *said first data traffic channel associated with said terminated first communication link to establish a communication link with said accessing mobile station*, as required by Claim 21 and thus Claim 28.

Specifically, as described above, the Yamashita reference discloses receiving an access request from a first mobile station and performing soft handoff. (Yamashita reference, column 5, lines 37-58). The Yamashita reference discloses terminating traffic information communications from a line controller of a first base transceiver station and a transceiver of a second base transceiver station (a first data traffic channel), while establishing traffic information communications between a transceiver of the first base transceiver station and a line controller of the second base transceiver station (a second data traffic channel) during soft handoff. (Yamashita reference, column 5, lines 45-58 and FIGURE 3). Forward traffic information received from the second base transceiver station is transmitted to the accessing mobile station as the radio frequency signal on the allocated channel (or second data traffic channel). (Yamashita reference, column 6, lines 46-48) Reverse traffic information is received from the accessing mobile station as the radio frequency signal on the allocated channel (or the second data traffic channel) is transferred to the second base station transceiver. (Yamashita reference, column 6, lines 48-51). The Yamashita reference thus fails to disclose, for example, allocating said first data traffic channel associated with said terminated first

communication link to establish a communication link with said accessing mobile station, as required by Claim 21 and thus Claim 28.

In addition, the Menich reference discloses a method for grouping channels having similar interference characteristics and allocating channels to communication units based on calculated link signal losses specific to GSM systems. (Menich reference, column 2, lines 21-27 and column 3, lines 3-10). Although the Menich reference discloses that handoff decisions may be based on received signal strength indication (RSSI), there is no suggestion or motivation in the Yamashita or Menich references to prompt one of ordinary skill to selectively and non-inventively combine or seek out other elements as required by Claim 28. Accordingly, the Yamashita and Menich references fail to render the Applicants' invention obvious. Applicants therefore respectfully assert that Claim 28 contains unique and non-obvious limitations over the art cited and is thus patentably distinguishable. Applicants thus respectfully request favorable reconsideration and withdrawal of the rejection to Claim 28.

Claim 36 ultimately depends from allowable Claim 29 and therefore is also allowable. Moreover, Applicants assert that the Yamashita reference, either alone or taken in combination with the Menich reference, does not disclose or make obvious all the necessary elements as required by Claim 36. As shown above, neither the Yamashita or Menich references, taken individually or in combination, teach or make obvious, for example, a channel allocator which *allocates said first data traffic channel associated with said terminated first communication link to establish a communication link with said accessing mobile station*, as required by Claim 29 and by Claim 36.

Accordingly, the Yamashita and Menich references fail to render the Applicants' invention obvious. There is no suggestion or motivation in the Yamashita or Menich references to prompt one of ordinary skill to selectively and non-inventively combine or seek out other elements as required by Claim 36. Accordingly, Applicants respectfully assert that Claim 36 contains unique and non-obvious limitations over the art cited and is thus patentably distinguishable. Applicants therefore respectfully request favorable reconsideration and withdrawal of the rejection to Claim 36.

Claim 40 ultimately depends from allowable Claim 37 and is therefore also allowable. Moreover, Applicants assert that the Yamashita reference, either alone or taken in combination with the Menich reference, does not disclose or make obvious all the necessary elements as required by Claim 40. As shown above, neither the Yamashita or Menich references, taken individually or in combination, teach or make obvious, for example, a method for allocating the plurality of data traffic channels comprising *allocating a first data traffic channel associated with the terminated first communication link to establish a communication link with the accessing mobile station*, as required by Claim 37 and by Claim 40.

Accordingly, the Yamashita and Menich references fail to render the Applicants' invention obvious. There is no suggestion or motivation in the Yamashita or Menich references to prompt one of ordinary skill to selectively and non-inventively combine or seek out other elements as required by Claim 40. Accordingly, Applicants respectfully assert that Claim 40 contains unique and non-obvious limitations over the art cited and is thus patentably distinguishable. Applicants therefore respectfully request favorable reconsideration and withdrawal of the rejection to Claim 40.



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SUMMARY

For the reasons given above, Applicants respectfully request favorable reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at jmockler@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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